

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1783 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

CHUNARA BACHU TALSI

Versus

MAMLATDAR

Appearance:

MR VS MEHTA for Petitioners
MRS VK PARIKH, A.G.P. for the Respondents.

CORAM : MR.JUSTICE R.R.JAIN

Date of decision: 27/03/97

ORAL JUDGEMENT

Aggrieved by the arbitrariness of the respondents in implementing the order dated 7.4.1965 passed by the Collector of Junagadh for regularising the land in possession of the petitioners on the terms and conditions stated in the order Annexure-D, the petitioners have

filed this petition.

2. Heard learned Advocate Mr. Mehta for the petitioners and Mrs. Parikh, learned Assistant Government Pleader for the respondents. Perused the papers. There is no dispute that the Collector of Junagadh vide his order dated 7.4.1965 passed in Appeal No.40/63-64 ordered for regularisation of the land in question and directed the Mamlatdar - respondent No.1 to do the needful in the matter for implementation thereof keeping in mind the directions. The record shows that repeated requests have been made to the respondents but the same have been taken to deaf years and the authority concerned has failed to implement the order in question for best reasons known to them. This is a live example of arbitrariness of the respondents. Even after lapse of 32 years, the implementation is withheld without any justification. The conduct of the respondents does not call for approval and requires strong condemnation. The arbitrary on the part of the respondents has added to the miseries of the petitioners, a poor and downtrodden citizen craving for protection of fundamental rights for shelter. Under these circumstances, this petition requires to be allowed by issuing appropriate writ against the respondents directing them to implement the order within a stipulated period.

3. Mr. Mehta for the petitioners has fairly stated that, so far as the order is concerned, its validity has not been challenged before any higher forum or has not been modified, reviewed or set aside by any of the authorities even in exercise of suo motu powers. If that be so, I find no reason or justification for the respondent - authority to withhold implementation of the order for such a long period of 32 years.

4. In the result, the petition is allowed. All the respondents and in particular respondent No.1, are directed to implement the order passed by the Collector on 7.4.1965 in Appeal No.40/63-64 within a period of 4 (four) weeks from the date of receipt of writ from this court and report compliance to this court within 2 (two) weeks thereafter. Rule is accordingly made absolute.

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